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09/981,696	10/16/2001	Eiji Kawai	09812.0174-00000	7316
22852	7590	02/24/2010		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER OUELLETTE, JONATHAN P	
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5 BEFORE THE BOARD OF PATENT APPEALS  
6 AND INTERFERENCES  
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9 *Ex parte* EIJI KAWAI  
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11 Appeal 2009-009093  
12 Application 09/981,696  
13 Technology Center 3600  
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16  
17 Decided: February 24, 2010  
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20  
21 *Before:* MURRIEL E. CRAWFORD, ANTON W. FETTING, and JOSEPH  
22 A. FISCHETTI, *Administrative Patent Judges.*  
23  
24 CRAWFORD, *Administrative Patent Judge.*  
25

26  
27 DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 5, 8 to 14, 19 to 21, 24 to 32, and 35 to 45. We have jurisdiction under 35 U.S.C. § 6(b) (2002). Appellant appeared for oral hearing on February 4, 2010.

Appellant invented an electronic guide information processing system for electronically processing guide information (Spec. 1).

Claim 1 under appeal reads as follows:

1. An electronic guide information processing system for electronically processing guide information about a customers attracting facility having an entrance and an exit, the system comprising:

an information distributing apparatus for converting the guide information into electronic guide information, encrypting the electronic guide information, and then distributing the encrypted electronic guide information;

a portable terminal apparatus for recording the encrypted electronic guide information, decrypting the encrypted electronic guide information at the entrance, and presenting the electronic guide information to an information user; and

an information processing apparatus comprising an information collecting apparatus for collecting the electronic guide information from the portable terminal apparatus at the exit, the information processing apparatus erasing the electronic guide information from the portable terminal apparatus at the exit and writing in the portable terminal apparatus information about the information user's use of the customers attracting facility at the exit.

1 The prior art relied upon by the Examiner in rejecting the claims on  
2 appeal is:

3 Gershman	US 6,401,085 B1	Jun. 4, 2002
4 Treyz	US 6,587,835 B1	Jul. 1, 2003

5 The Examiner rejected claims 1 to 5, 8 to 14, 19 to 21, 24 to 32,  
6 and 35 to 45 under 35 U.S.C. § 103(a) as being unpatentable over Treyz in  
7 view of Gershman.

8  
9 **ISSUE**

10 Has Appellant shown that the Examiner erred in finding that Treyz  
11 discloses an information processing apparatus that erases electronic guide  
12 information from a portable terminal apparatus at the exit of a customer  
13 attracting facility and writes, on the portable terminal apparatus, information  
14 about the user's use of the customer attracting facility at the exit?

15  
16 **FINDINGS OF FACT**

17 Treyz discloses a system based on handheld computing devices that  
18 assist users in shopping and in performing wireless transactions (col. 1, ll. 6  
19 to 9). The system allows users to obtain information regarding products  
20 offered for sale using local and remote wireless links (col. 1, ll. 41 to 45).  
21 The system may provide shopping assistance service which provides  
22 information about current events through an information screen provided on  
23 the handheld device (col. 2, ll. 57 to 63). The shopping assistance service  
24 may be used to make financial transactions (col. 3, ll. 37 to 38). The  
25 financial transactions may be monitored by continuously sending financial  
26 transaction information to the handheld device (col. 46, ll. 9 to 42). The

shopping assistance service turns on automatically when the service detects the handheld device's presence (col. 49, ll. 41 to 44).

The Examiner stated:

Treyz discloses . . . an information processing apparatus comprising an information collecting apparatus for collecting the electronic guide information from the portable terminal apparatus at the exit (collecting data is equivalent to deleting/erasing the data as claimed in the next step; C49, shopping assistance link deleted/collected along with icon/descriptive information—once user out of range or has exited the facility). . . . Treyz does not expressly disclose sending information to the user in a “batch” format at a specific location (exit), Treyz does disclose continuously sending financial transaction information to the user device, indicating where and what the user did with the system (C46 L9-42). . . . Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to send the information to the user at specific times and locations as a way to decrease transmission costs.

(Ans. 3 to 4).

#### PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988).

1 ANALYSIS

2 We will not sustain the Examiner's rejection. Although the Examiner  
3 is correct that in the Treyz device information may be written to the  
4 handheld device in batches and erased once the device is out of range, the  
5 Examiner has not established that the writing to the device and the erasing of  
6 the device occur at the exit. Treyz discloses that the information is erased  
7 when the device is out of range but does not disclose that the device is out of  
8 range at the exit. In addition, once out of range, it is not possible to write to  
9 the device. Therefore, the erasing and writing does not occur at the same  
10 location.

11  
12 CONCLUSION OF LAW

13 On the record before us, Appellant has shown that the Examiner erred  
14 in rejecting the claims.

15  
16 DECISION

17 The Examiner's decision is reversed.

18  
19 REVERSED

1 hh

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